

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)

MARITIME COMMUNICATIONS/LAND)
MOBILE, LLC)

EB Docket No. 11-71
File No. EB-09-IH-1751
FRN: 0013587779

Participant in Auction No. 61 and Licensee of Various)
Authorizations in the Wireless Radio Services)

FILED/ACCEPTED

Applicant for Modification of Various)
Authorizations in the Wireless Radio Services)

MAY 19 2011

Federal Communications Commission
Office of the Secretary

Applicant with ENCANA OIL AND GAS (USA), INC.;)
DUQUESNE LIGHT COMPANY; DCP)
MIDSTREAM, LP; JACKSON COUNTY RURAL)
MEMBERSHIP ELECTRIC COOPERATIVE;)
PUGET SOUND ENERGY, INC.; ENBRIDGE)
ENERGY COMPANY, INC.; INTERSTATE POWER)
AND LIGHT COMPANY; WISCONSIN POWER)
AND LIGHT COMPANY; DIXIE ELECTRIC)
MEMBERSHIP CORPORATION, INC.; ATLAS)
PIPELINE – MID CONTINENT, LLC; DENTON)
COUNTY ELECTRIC COOPERATIVE, INC.,)
DBA COSERV ELECTRIC; AND SOUTHERN)
CALIFORNIA REGIONAL RAIL AUTHORITY)

Application File Nos.
0004030479, 0004144435,
0004193028, 0004193328,
0004354053, 0004309872,
0004310060, 0004314903,
0004315013, 0004430505,
0004417199, 0004419431,
0004422320, 0004422329,
0004507921, 0004153701,
0004526264, 0004636537,
and 0004604962

For Commission Consent to the Assignment of Various)
Authorizations in the Wireless Radio Services)

To: Marlene H. Dortch, Secretary

Attention: Chief Administrative Law Judge, Richard L. Sippel

MOTION TO HOLD HEARING IN ABEYANCE
AS TO CII PETITIONERS

By their attorneys and pursuant to Section 1.45 of the rules and regulations of the Federal Communications Commission's ("Commission"),¹ Atlas Pipeline Mid-Continent, LLC

¹ 47 C.F.R. § 1.45.

(“Atlas”);² DCP Midstream, LP (“DCP”); Denton County Electric Cooperative, Inc. d/b/a CoServ Electric (“CoServ”); Dixie Electric Membership Corporation, Inc. (“DEMCO”); Enbridge Energy Company, Inc. (“Enbridge”); EnCana Oil & Gas (USA) Inc. (“Encana”);³ Interstate Power and Light Company (“IPL”); Jackson County Rural Electric Membership Cooperative (“Jackson County REMC”);⁴ and Wisconsin Power and Light Company (“WPL”), hereby submit this Motion to Hold the Hearing in Abeyance (“Motion”). All of the petitioners are Critical Infrastructure Industry (“CII”) companies and are collectively referred to herein as the “*CII Petitioners*.” The *CII Petitioners* respectfully request that the above-captioned hearing be held in abeyance until the Commission has ruled on the *CII Petitioners*’ Petition for Reconsideration (“Petition”) filed with the Commission this same date. A copy of the Petition is attached and incorporated herein by reference.

The Petition requests that the Commission reconsider a limited aspect of its Order to Show Cause, Hearing Designation Order, and Notice of Opportunity for Hearing (“HDO”) in this proceeding.⁵ In particular, the Petition urges the Commission to reconsider its decision so as to afford *CII Petitioners* the same opportunity afforded to another CII company and applicant in this proceeding, the Southern California Regional Rail Authority (“Metrolink”), to show that

² The correct name of the entity is Atlas Pipeline Mid-Continent LLC.

³ The correct name of the entity is EnCana Oil & Gas (USA) Inc.

⁴ The correct name of the entity is Jackson County Rural Electric Membership Cooperative.

⁵ *In re Maritime Communications/Land Mobile, LLC*, Order to Show Cause, Hearing Designation Order, and Notice of Opportunity for Hearing, FCC 11-64 (*rel.* Apr. 19, 2011) (“HDO”). In the hearing proceeding, the qualifications of Maritime to remain a Commission licensee will be adjudicated. All of the *CII Petitioners* duly entered Notices of Appearance.

their applications, too, should be removed from the ambit of the HDO and promptly granted by the Commission.⁶

Since the Petition seeks to remove all of the *CII Petitioners* and their respective applications from the ambit of the hearing, no purpose would be served by requiring them to appear and participate in the hearing before the Petition is resolved by the Commission and their status as parties in this proceeding has been clarified.

A request for stay requires that the moving party demonstrate: (a) that it is likely to prevail on the merits; (b) that it will suffer irreparable harm absent a stay; (c) that grant of a stay will not substantially harm other interested parties; and (d) the public interest favors grant of a stay.⁷

As shown in the Petition, which is incorporated by reference herein, *CII Petitioners* are likely to prevail on the merits given the Commission's history of treating CII entities similarly.⁸ *CII Petitioners* will also suffer irreparable and unnecessary harm in participating in the hearing before the ALJ while advocating to the Commission that they be removed from the hearing. Grant of the stay will not substantially harm other interested parties because the *CII Petitioners* seek a stay for a limited time – until the Commission has ruled on the Petition. Finally, the public interest is in favor of granting this Motion.

Grant of this Motion will neither prejudice the OALJ's ability to conduct the hearing against Maritime nor adversely affect the Commission's objective to ensure compliance with its

⁶ *Id* at fn 7.

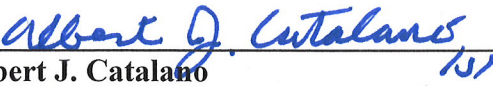
⁷ See, e.g., *In the Matter of WVTG, Inc. and WUPW Broadcasting, LLC*, 25 FCC Rcd 12263 (2010) (citing *Virginia Petroleum Jobbers Ass'n v. FPC*, 259 F.2d 921, 925 (D.C. Cir. 1958)).

⁸ *Melody Music, Inc. v. FCC*, 120 U.S. App. D.C. 241, 345 F.2d 730 (D.C.Cir. 1965); *Garrett v. FCC*, 513 F.2d 1056 (D.C. Cir. 1975).

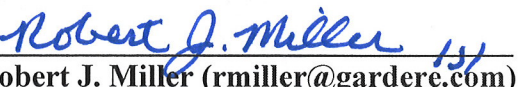
spectrum management principles, as discussed in the Petition. The CII Petitioners have proposed to acquire only a relatively small portion of Maritime's holdings, and grant of their applications would not serve to terminate the hearing. The OALJ would remain in a position to adjudicate Maritime's qualifications and, if the evidence so warrants, revoke some or all of Maritime's remaining authorizations or levy conditions, penalties or fines, if it so chooses, against Maritime. Furthermore, the protection of these remaining spectrum holdings would serve as an incentive for Maritime to comply with their FCC obligations.

WHEREFORE, for the foregoing reasons, the CII Petitioners respectfully request that this Motion be granted.

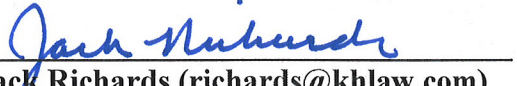
Respectfully submitted,


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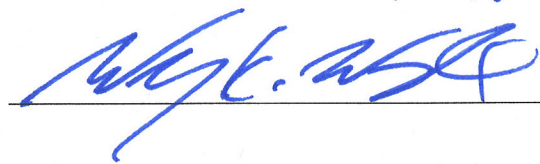
Counsel for Interstate Power and Light Company and Wisconsin Power and Light Company

May 19, 2011

Attachment: Petition for Reconsideration
Certificate of Service

CERTIFICATE OF SERVICE

I, Wesley K. Wright, hereby certify that on this 19th day of May, 2011, a copy of the foregoing Motion to Hold Hearing in Abeyance as to *CII Petitioners* was filed with the Commission, transmitted to the Office of Administrative Law Judges via fax number (202) 418-0195 pursuant to the Order (FCC 11M-11) and served on the parties listed below via First Class U.S. Mail.



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